

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY	)	MDL No. 1456
AVERAGE WHOLESALE PRICE	)	
LITIGATION	)	Master File No. 01-cv-12257-PBS
	)	
	)	Subcategory No. 06-11337-PBS
	)	
THIS DOCUMENT RELATES TO:	)	
<i>United States of America ex rel. Ven-A-</i>	)	Judge Patti B. Saris
<i>Care of the Florida Keys, Inc., v. Baxter</i>	)	
<i>Healthcare Corporation and Baxter</i>	)	
<i>International, Inc.,</i>	)	
Case No. 10-cv-11186	)	
	)	

**STIPULATION OF DISMISSAL WITH PREJUDICE OF CERTAIN CLAIMS  
AGAINST BAXTER PARTIES AND MOTION FOR ORDER OF DISMISSAL  
WITH PREJUDICE**

The above-captioned matter is an action brought under the *qui tam* provisions of the federal False Claims Act, 31 U.S.C. §§3729-3733, by Relator Ven-A-Care of the Florida Keys, Inc. (the “Relator”) against Baxter Healthcare Corp. and Baxter International, Inc. (collectively “Baxter”) (Baxter together with Relator collectively the “Parties”).

Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure and the *qui tam* provisions of the federal False Claims Act, 31 U.S.C. § 3730(b)(1), and in accordance with, and as limited by, the terms of the Settlement Agreement and Release, the Parties hereby stipulate to the entry of an order dismissing all “Released Claims” for the “Covered Conduct” against Baxter (as the terms in quotations are defined in the Settlement Agreement and Release attached hereto as Exhibit A.) The Parties further stipulate that, except as specified in the Settlement Agreement

and Release, any claim the Relator or its counsel has to a Relator's share or for expenses, attorneys' fees, and costs shall not be the responsibility of Baxter.

WHEREFORE, to permit them to effectuate the terms of their partial settlement, pursuant to Rule 41(a) of the Federal Rules of Civil Procedure and the *qui tam* provisions of the federal False Claims Act, 31 U.S.C. § 3730(b)(1), the Parties respectfully request that the Court enter an order in the form attached hereto as Exhibit B.

Respectfully submitted,

/s/ James J. Breen  
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Dated: October 7, 2011